

COMMONWEALTH OF MASSACHUSETTS

CITY OF LOWELL

In City Council

VOTE

Authorizing the City Manager to accept a Temporary Construction Easement and a Permanent Easement from Centennial Island Hydroelectric Co., ("HYDRO") to the City of Lowell pertaining to the City's project, known as Concord River Greenway Project.

BE IT VOTED BY THE CITY COUNCIL OF THE CITY OF LOWELL, as follows:

That the City Manager be and hereby is authorized on behalf of the City of Lowell, to accept a Temporary Construction Easement and a Permanent Easement from Centennial Island Hydroelectric Co., ("HYDRO") to the City of Lowell which involves property known as 670 Lawrence Street, which involves among other things, a temporary construction easement in the approximate area of 10,347 square feet over, under, in, along, across and upon HYDRO'S PROPERTY to enable construction of the Concord River Greenway, in accordance with the Easement plan attached hereto and made a part hereof and referred to as Exhibit "B". Said Easement Agreement shall be in the form or substantially the form attached hereto and referred to as Exhibit "A"; and

The City Manager be and hereby is authorized on behalf of the City of Lowell, to accept a permanent easement for the use and benefit of the CITY and its residents, guests, agents, employees, invitees and the general public and other parties to whom the City may give rights to use this permanent easement to be used for a public walkway (the "WALKWAY") as part of the Concord River Greenway project over, under, in, along, across and upon on, upon, HYDRO'S PROPERTY of approximately 18,271 square feet as depicted on the plan and description attached hereto and made a part hereof and referred to as Exhibit "B" and "C". Said Easement Agreement shall be in the form or substantially the form attached hereto and referred to as Exhibit "A".

EASEMENT AGREEMENT

This Easement Agreement is made on the date set forth at the end hereof by and between: THE CITY OF LOWELL ("CITY"), a municipal corporation with principal offices at 375 Merrimack Street, City Hall, Lowell, Middlesex County, Massachusetts 01852; and CENTENNIAL ISLAND HYDROELECTRIC CO. ("HYDRO"), a Massachusetts Limited Partnership with address at 30R Hampshire Street, Methuen, Massachusetts 01844. Together the CITY and HYDRO shall be referred to as the "PARTIES."

WHEREAS, HYDRO is the current owner of a hydroelectric plant with an address at 670 Lawrence Street, Lowell, Massachusetts; (the "PROPERTY"); and

WHEREAS, the CITY intends the construction of the Lowell Concord River Greenway and desires to have a temporary construction easement and a permanent easement over, under, in, along, across and upon HYDRO's PROPERTY as shown on a plan attached hereto as Attachment "A" and a legal description of said permanent easement attached hereto as Attachment "B as prepared by Surveying and Mapping Consultants, Inc.."

NOW THEREFORE, the PARTIES, for and in consideration of One Dollar (\$1.00) and the mutual promises, agreements and covenants herein contained, hereby agree as follows:

1. HYDRO hereby grants, transfers and delivers to the CITY a permanent easement of approximately 18,271 square feet, as depicted on the plan and legal description annexed hereto, to be used for a public walkway ("WALKWAY") as part of the Concord River Greenway project. The said easement shall be for the use and benefit of the CITY and its residents, agents, employees, guests, invitees, the general public and other parties to whom the CITY may give rights to use this permanent easement.

"A"

2. The CITY hereby accepts the permanent easement referenced in section 1 above and more fully shown and described in Attachments "A" and "B" hereto, subject to the conditions and obligations set forth below.

3. HYDRO, for itself, its partners, its owners, its successors and assigns, hereby covenants and grants to the CITY a temporary construction easement over, under, in, along, across and upon the PROPERTY as described on the attached design plan and description. The temporary construction easement encompasses approximately 10,347 square feet and shall automatically terminate upon the final completion and approval by the CITY of the construction improvements. The CITY hereby agrees to construct and complete the said WALKWAY and to maintain same at no cost to HYDRO.

4. The CITY further hereby agrees to repair any and all damage, if any, caused to the PROPERTY resulting from the construction and/or maintenance of said WALKWAY and to indemnify and hold harmless HYDRO up to any limit imposed by law from any claim, damage, liability, or related expense including reasonable attorney's fees arising out of or caused by any act or omission by the CITY and its employees resulting from the construction and/or maintenance of said WALKWAY.

5. The CITY agrees to take such steps as are reasonably necessary to assure that the public use of the easement granted hereby shall not interfere with HYDRO's use of its PRPOERTY for its day to day operations.

6. The PARTIES agree that the construction work is to commence on or about August 1, 2020 since the months of August and September are typically the period of time during which HYDRO's ability to operate its facilities and generate power does not exist, and the CITY contemplates that the construction work impacting HYDRO's PROPERTY should be

completed in six to eight weeks from commencement. Consequently, the PARTIES anticipate that HYDRO's business operations will not be impacted during the construction period. However, in the event of a delay in the commencement or completion of construction by the CITY or its contractor(s) such that the construction will be ongoing during HYDRO's ability to operate and generate power, the PARTIES agree that HYDRO will be entitled to compensation at the rate of \$100/hour for the period of time that HYDRO had the ability to operate but was unable to do so because of the construction work. In the event HYDRO does not cease operations from August 1, 2020 forward because it has the ability to operate and generate power yet the CITY seeks to commence construction that will impede HYDRO's ability to operate, HYDRO will be entitled to compensation at the rate of \$100/hour for the period of time in which the construction work impedes HYDRO's ability to operate and generate power.

7. The provisions of this Easement Agreement shall inure to the benefit of and be binding upon the PARTIES hereto and their respective successors, assigns, grantees and transferees, and upon all other persons or entities claiming by, through or under the CITY or HYDRO respectively.

8. This agreement shall be effective as of the date set forth below.

9. Each individual signing on behalf of a party to this agreement states that he or she is the duly authorized representative of the signing party and that his or her signature on this agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the individual is signing.

10. That this Easement Agreement shall be duly recorded at the expense of the CITY at the Middlesex (North District) Registry of Deeds.

Executed as a sealed instrument this _____ day of _____, 2020.

CITY OF LOWELL

CENTENNIAL ISLAND
HYDROELECTRIC CO.

Eileen M. Donoghue
City Manager

By: Kevin P. Olson
Managing Partner

APPROVED AS TO FORM:

Gary D. Gordon
Assistant City Solicitor

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

On this _____ day of _____, 2020, before me the undersigned Notary Public, personally appeared Eileen M. Donoghue, City Manager, proved to me through satisfactory evidence of identification, which was Notary's personal knowledge of the individual, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public

My commission expires:

On this _____ day of _____, 2020, before me the undersigned Notary Public, personally appeared _____, proved to me through satisfactory evidence of identification, which was Notary's _____, to be the person whose name is signed on the preceding document, and acknowledged to me that he signed it voluntarily for its stated purpose.

Notary Public

My commission expires:

Permanent Easement #5

A certain easement on land situated in Lowell shown as Permanent Easement #5 on a plan entitled "Easement plan of land, Concord River Greenway, Lowell, MA", dated June 29, 2018, prepared by Surveying and Mapping Consultants Inc., said easement being more particularly bounded and described as follows:

Beginning at a point, that is the southeasterly corner of said easement, thence

S55°46'00"W a distance of 30.01 feet to a point, thence

N35°22'36"W a distance of 12.37 feet to a point, thence continuing

N35°22'36"W a distance of 3.59 feet to a point, thence

N34°56'14"W a distance of 162.36 feet to a point, thence

N34°46'45"W a distance of 52.56 feet to a point, thence

S69°33'34"W a distance of 27.57 feet to a point, thence

N41°41'45"W a distance of 15.78 feet to a point, thence

N42°27'41"E a distance of 23.01 feet to a point, thence

N37°31'32"W a distance of 83.21 feet to a point, thence

By a curve to the right, having a radius of 130.00 feet and an arc length of 58.95 feet to a point, thence

By a curve to the left, having a radius of 50.00 feet and an arc length of 32.17 feet to a point, thence

By a curve to the left, having a radius of 670.00 feet and an arc length of 153.79 feet to a point, thence

N12°41'34"E a distance of 19.40 feet to a point, thence

N88°10'41"E a distance of 33.09 feet to a point, thence

S38°17'24"E a distance of 33.37 feet to a point, thence

S53°43'38"E a distance of 95.97 feet to a point, thence

S36°26'09"E a distance of 43.05 feet to a point, thence

S36°07'53"E a distance of 152.92 feet to a point, thence

S34°46'45"E a distance of 71.37 feet to a point, thence

S34°56'14"E a distance of 162.19 feet to a point, thence

S35°22'36"E a distance of 16.45 feet to the point of beginning.

Containing an area of 18,271 square feet, more or less.

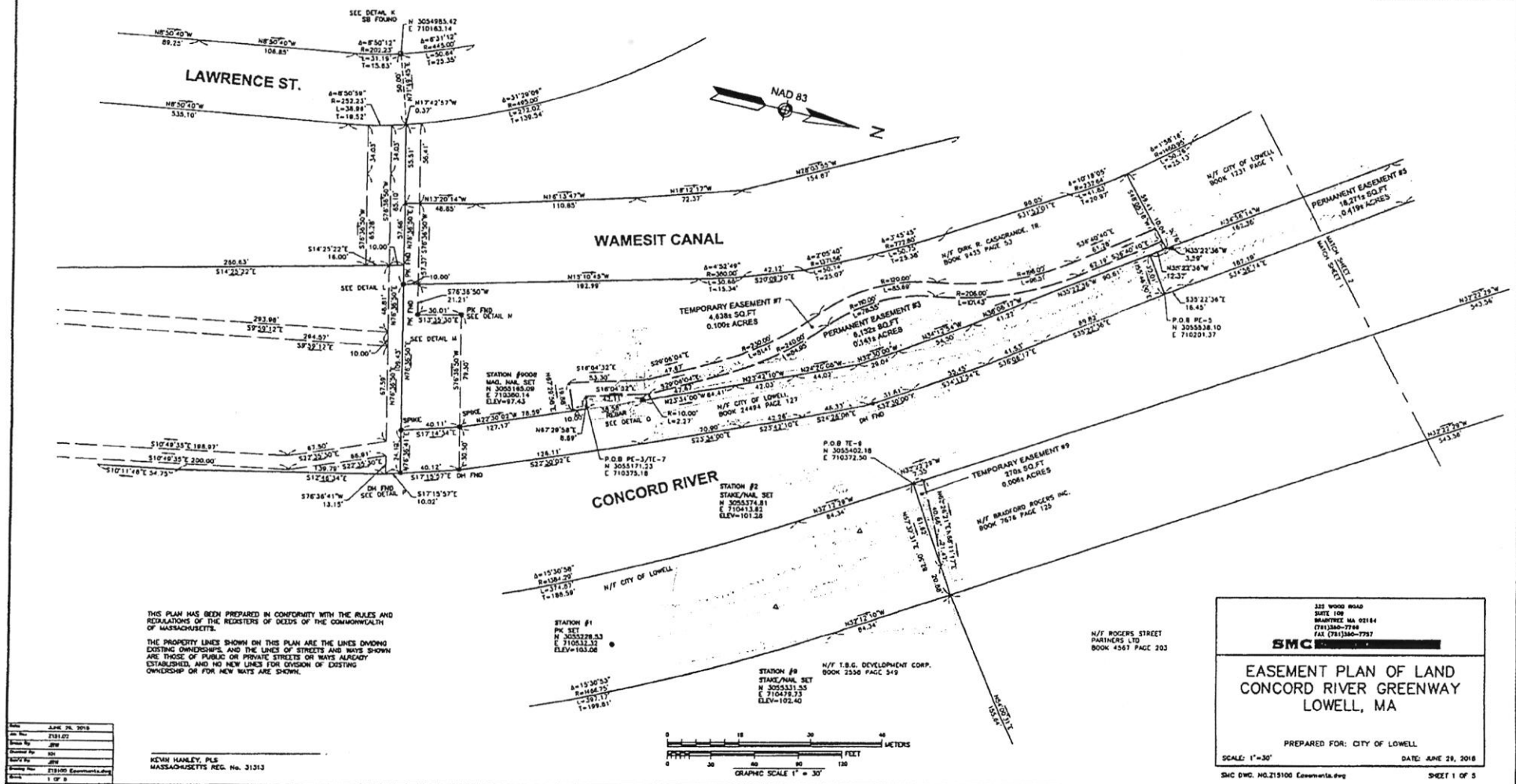
KENN HANLEY, PLS
MASSACHUSETTS REG. NO. J1313

END
AG. SPIKE.
ONCRETE BO
TONE BOUN
SQUIDCON
RELL HOLE
TEBAR
LATCH BASIN
TILITY POLE
EWOR WANN
WRAIN WANN
RAY WIRE
ITUMINOUS C

DATED JULY 14, 2003
 0 30 60 90 120 150 METERS
 0 30 60 90 120 FEET
 GRAPHIC SCALE 1" = 30'

Issue	APR 24, 2018
Old Bal	2131.23
Good By	0.00
Transfer By	0.00
Net / By	0.00
Ending Bal	2131.23

"B"



Eileen M. Donoghue
City Manager

Kara Keefe Mullin
Assistant City Manager

January 28, 2020

Mayor John J. Leahy
and
Members of the City Council

SUBJECT: Temporary and Permanent Easements Related to the Concord River Greenway

Dear Mayor Leahy and Members of the City Council:

Attached please find for your consideration:

1. EASEMENT from Centennial Island Hydroelectric Company to the City of Lowell; and
2. EASEMENT from Related Stirling Bay, LLC to the City of Lowell

These temporary and permanent easements are intended to facilitate the development of the new phase of the Concord River Greenway (CRG). This project is anticipated to begin construction summer 2020 and include an extension of the CRG; including a new bridge across the Concord River to connect existing portions of the CRG.

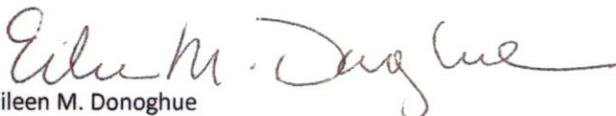
The attached instruments would allow the City of Lowell or its contractors to enter upon Related Stirling Bay and Centennial Island Hydroelectric property, stage and store construction materials in certain areas of its property, and construct permanent elements of the CRG.

The permanent easements would maintain public access over Related Stirling and Centennial Island Hydro property within the easement area along the Concord River. It would also allow the City to enter onto this easement area for CRG maintenance projects with advance notice.

Centennial Island Hydroelectric is donating these easements to the City, and will only be compensated if the CRG construction project shuts down operations. Related Stirling is also donating their easements, with the City agreeing to pay for costs associated with the survey of property and legal review of the attached easement.

The City Council voted in favor of previous easements in support of prior phases of this project, and we hope you will continue to support this important project. Once voted upon we will execute and record these easements. Please contact Diane Tradd at 978-674-1401 if you have any questions.

Sincerely,


Eileen M. Donoghue
City Manager

EMD/ns
Attachment

cc: Diane Tradd, Assistant City Manager/DPD Director
Christine P. O'Connor, City Solicitor
Brian Samson, Related Stirling
Kevin Olson, Centennial Hydroelectric Company